

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

OUT RAGE, LLC,)	
Plaintiff/Counterclaim Defendant,)	
)	
)	
v.)	Civil Action No. 11-CV-701
)	
NEW ARCHERY PRODUCTS CORP.,)	
Defendant/Counterclaim Plaintiff.)	
)	
NEW ARCHERY PRODUCTS CORP.,)	
Plaintiff/Counterclaim Defendant,)	
)	
)	
v.)	Civil Action No. 12-CV-122
)	
OUT RAGE, LLC,)	
Defendant/Counterclaim Plaintiff.)	
)	

**NEW ARCHERY PRODUCTS CORP.’S DAUBERT MOTION TO EXCLUDE
TESTIMONY OF DR. ULMER**

New Archery Products Corp. (“NAP”), by and through its undersigned counsel, hereby respectfully moves this Court that the proposed expert testimony of Dr. Randy Ulmer, tendered by Out RAGE LLC (“Out Rage”), be stricken for its failure to comport with the requirements of Fed. R. Evid. 702, as well as the Supreme Court’s holdings in *Daubert v. Merrell Dow Pharms, Inc.*, 509 U.S. 579 (1993) and the Supreme Court subsequent rulings in this area.

Dr. Ulmer submitted an expert report on January 4, 2013 with respect to NAP’s false advertising and trademark claims against Out Rage. Dr. Ulmer was deposed in Phoenix on February 27, 2013. Out Rage has indicated that it intends to rely on Dr. Ulmer’s observations in its motion for summary judgment, due March 22, 2013. As such, and in connection with Out

Rage's Rule 56 Motion, NAP respectfully requests that the Court consider the merits of this *Daubert* Motion. In short, NAP requests that all such references to Dr. Ulmer be stricken as he, a veterinarian and a competitive bow hunter, is not competent to give expert testimony in this matter on advertising and marketing.

Respectfully submitted,

Dated: March 22, 2013

By: s/ R. Mark McCareins

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Attorneys for New Archery Products Corp.

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2013, I caused a true and correct copy of **New Archery Product Corp.'s Daubert Motion to Exclude Testimony of Dr. Ulmer** to be served on all counsel of record by filing said document through the Court's ECF System, as well as by serving through electronic mail on the following counsel for Out RAGE LLC:

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